

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

APRIL CARROLL as)
ADMINISTRATRIX OF ESTATE OF)
KEVIN CARROLL and in her own right,)
)
Plaintiff,)
)
v.)
)
COMPREHENSIVE HEALTHCARE)
MANAGEMENT SERVICES, LLC,)
doing business as BRIGHTON)
REHABILITATION AND WELNESS)
CENTER, **COMPREHENSIVE**)
MANAGEMENT SERVICES-)
PROPERTY, LLC, CHMS GROUP,)
LLC, SAMUEL HALPER, EPHRAM)
LAHASKY, HEALTHCARE SERVICES)
GROUP, INC., HCSG LABOR SUPPLY,)
LLC, HCSG SUPPLY, INC. and HCSG)
STAFF LEASING SOLUTIONS, LLC,)
HCSG EAST, LLC,)
)
Defendants.)

2:22cv686
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MEMORANDUM ORDER

AND NOW, this 22nd day of November, 2022, upon due consideration of 1) plaintiff's motion to remand and the parties' submissions in conjunction therewith and 2) the Report and Recommendation of the Magistrate Judge addressing the same and the parties' submissions in conjunction therewith, and after *de novo* review of the record, IT IS ORDERED that [12] plaintiff's motion to remand be, and the same hereby is, granted. The Clerk of Court is directed to remand this action to the Court of Common Pleas of Allegheny County forthwith. The [48] Report and Recommendation of the Magistrate Judge as augmented therein is adopted as the opinion of the court.

Defendants' objections are without merit. Every Court of Appeals to have considered the issue has ruled that the Public Readiness and Emergency Preparedness Act does not completely preempt state law causes of action in ordinary negligence or otherwise inject a substantial, disputed federal question under the Grable doctrine when raised as a defense. At this juncture the Third, Fifth, Seventh and Ninth Circuits have essentially so ruled; and as aptly explained by the Magistrate Judge, defendants cannot avail themselves of federal officer status given the backdrop of this litigation; and

IT FURTHER IS ORDERED that [21], [23] defendants' motions to dismiss be, and the same hereby are, denied as moot and without prejudice to renew, if appropriate, in state court.

s/David Stewart Cercone
David Stewart Cercone
Senior United States District Judge

cc: David L. Kwass, Esquire
Elizabeth Bailey, Esquire
Robert J. Mongeluzzi, Esquire
Andrew G. Kimball, Esquire
Erica Kelly Curren, Esquire
Jennifer M. Swistak, Esquire
John M. Campbell, Esquire

(Via CM/ECF Electronic Mail)